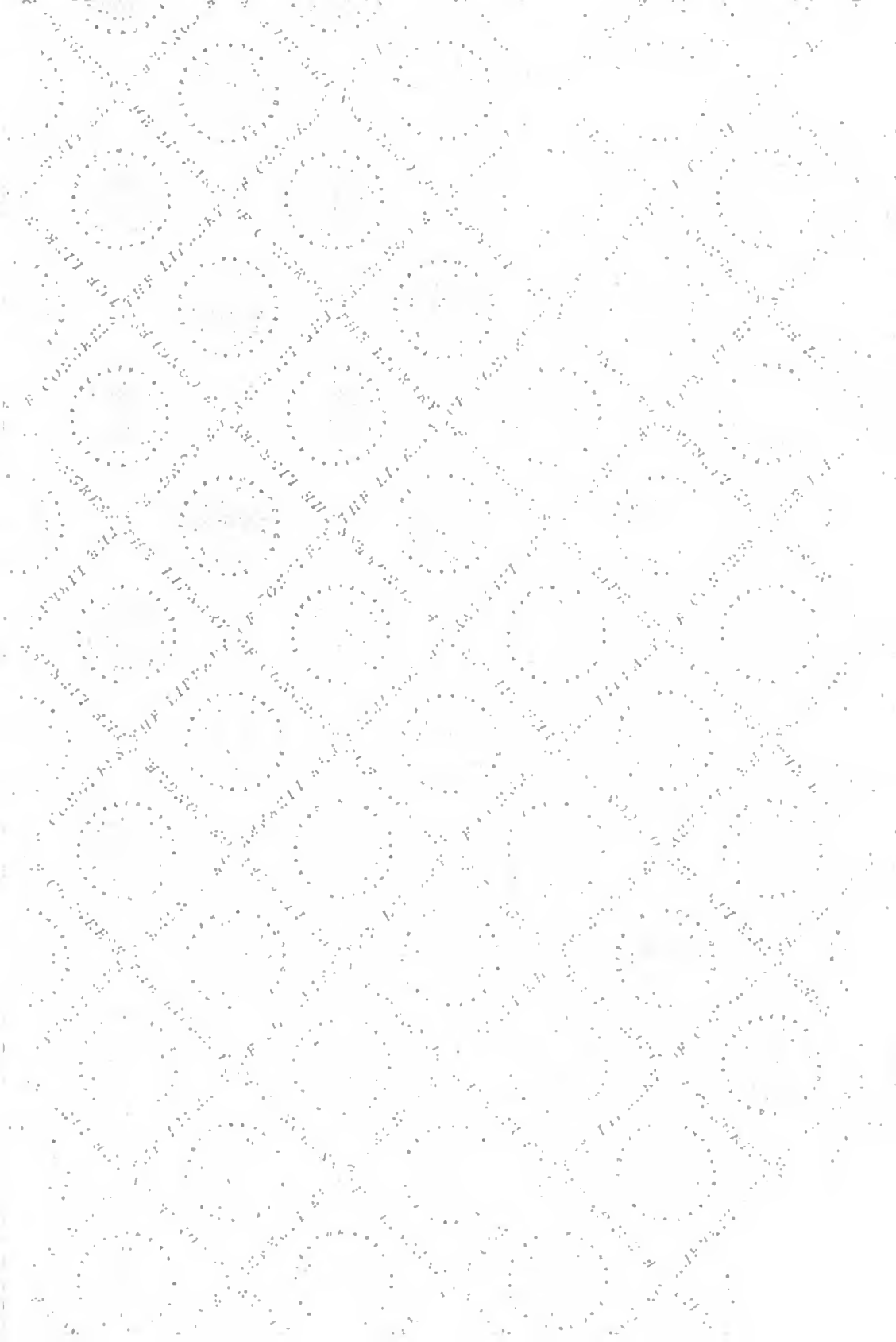


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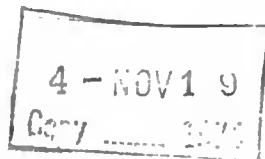




United States Congress House Committee
on Interstate and Foreign Commerce
Subcommittee on Transportation and Aeronautics

AIRPORT LAND RELEASES

HEARING
BEFORE THE
SUBCOMMITTEE ON
TRANSPORTATION AND AERONAUTICS
OF THE
COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
NINETY-THIRD CONGRESS



SECOND SESSION

ON

H.R. 783, H.R. 5815, H.R. 8022, H.R. 11131

AND

S. 1116

BILLS TO AUTHORIZE THE SECRETARY OF TRANSPORTATION TO RELEASE RESTRICTION ON THE USE OF CERTAIN PROPERTIES CONVEYED TO CERTAIN CITIES FOR AIRPORT PURPOSES

OCTOBER 1, 1974

Serial No. 93-92

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AIRPORT LAND RELEASES

TUESDAY, OCTOBER 1, 1974

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TRANSPORTATION AND AERONAUTICS,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 2 p.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Ralph H. Metcalfe presiding [Hon. John Jarman, chairman].

Mr. METCALFE. The subcommittee will please be in order.

Today we are commencing hearings on legislation which will allow the Secretary of Transportation to release restrictions on the use of property conveyed to cities for airport purposes. The bills before us are: H.R. 783 (Mayne, Iowa) and S. 1116, pertaining to Algona, Iowa; H.R. 5815 (Thornton, Arkansas) pertaining to Camden, Ark.; H.R. 8022 (Ichord, Missouri) pertaining to Rolla, Mo.; and H.R. 11131 (Skubitz and Sebelius, Kansas) pertaining to Elkhart, Kans.

We had similar legislation back in the 89th Congress for Clarinda, Iowa. So far as I know, these are noncontroversial bills and the existing restrictions are no longer considered necessary by either the cities affected or the Department of Transportation and other Government agencies who have an interest in these matters.

Without objection the text of the bills and the agency reports shall be placed at this point in the record.

[The text of H.R. 783, H.R. 5815, H.R. 8022, H.R. 11131, and S. 1116 and agency reports thereon follow:]

(1)

93d CONGRESS
1st Session

H. R. 783

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1973

Mr. MAYNE introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Algona, Iowa, for airport purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That, notwithstanding section 16 of the Federal Airport Act
- 4 (as in effect on March 20, 1947), the Secretary of Trans-
- 5 portation is authorized, subject to the provisions of section 4
- 6 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), to
- 7 grant releases from any of the terms, conditions, reserva-
- 8 tions, and restrictions contained in the deed of conveyance

3

2

1 dated March 20, 1947, under which the United States con-
2 veyed certain property to the city of Algona, Iowa, for
3 airport purposes.

93^d CONGRESS
1st SESSION

H. R. 5815

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 1973

Mr. THORNTON introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Camden, Arkansas, for airport purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That, notwithstanding section 16 of the Federal Airport Act
4 (as in effect on March 20, 1947), the Secretary of Transpor-
5 tation is authorized, subject to the provisions of section 4 of
6 the Act of October 1, 1949 (50 App. U.S.C. 1622c), to
7 grant releases from any of the terms, conditions, reservations,
8 and restrictions contained in the deed of conveyance dated

1 August 5, 1954, under which the United States conveyed cer-
2 tain property to the city of Camden, Arkansas, for airport
3 purposes.

93d CONGRESS
1st Session

H. R. 8022

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 1973

Mr. ICHORD introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Rolla, Missouri, for airport purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That, notwithstanding section 16 of the Federal Airport
4 Act (as in effect on October 6, 1958), the Secretary of
5 Transportation is authorized, subject to the provisions of
6 section 4 of the Act of October 1, 1949 (50 App. U.S.C.
7 1622e), to grant releases from any of the terms, conditions,
8 reservations, and restrictions contained in the deed of con-
9 veyance dated October 6, 1958, under which the United
10 States conveyed certain property to the city of Rolla, Mis-
11 souri, for airport purposes.

93D CONGRESS
1ST SESSION

H. R. 11131

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 25, 1973

Mr. SKUBITZ (for himself and Mr. SEBELIUS) introduced the following bill;
which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Elkhart, Kansas, for airport purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That, notwithstanding section 16 of the Federal Airport
4 Act (as in effect on March 20, 1947), the Secretary of
5 Transportation is authorized, subject to the provisions of
6 section 4 of the Act of October 1, 1949 (50 App. U.S.C.
7 1622c), to grant releases from any of the terms, conditions,
8 reservations, and restrictions contained in the deed of con-
9 veyance dated March 11, 1958, under which the United
10 States conveyed certain property to the city of Elkhart,
11 Kansas, for airport purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 1, 1973

Referred to the Committee on Interstate and Foreign Commerce

AN ACT

To authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Algona, Iowa, for airport purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That, notwithstanding section 16 of the Federal Airport Act
4 (as in effect on March 20, 1947), the Secretary of Trans-
5 portation is authorized, subject to the provisions of section 4
6 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), to
7 grant releases from any of the terms, conditions, reservations,
8 and restrictions contained in the deed of conveyance dated
9 March 20, 1947, under which the United States conveyed
10 certain property to the city of Algona, Iowa, for airport
11 purposes.

Passed the Senate September 27, 1973.

Attest:

FRANCIS R. VALEO.

Secretary.

DEPARTMENT OF JUSTICE,
Washington, D.C., July 2, 1973.

HON. HARLEY O. STAGGERS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reference to your request for the views of the Department of Justice on H.R. 783, a bill to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Algona, Iowa, for airport purposes.

The purpose of the bill is to authorize the Secretary of Transportation, subject to the provisions of Section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1662c), and notwithstanding Section 16 of the Federal Airport Act (as in effect on March 20, 1947), to grant releases from any of the terms, conditions, reservations and restrictions contained in a deed dated March 20, 1947, under which the United States conveyed certain property to the city of Algona, Iowa, for airport purposes.

Whether this legislation should be enacted involves considerations as to which the Department of Justice defers to the Department of Transportation.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Cordially,

MIKE McKEVITT,
*Assistant Attorney General,
Legislative Affairs.*

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., July 10, 1973.

HON. HARLEY O. STAGGERS,
*Chairman, Committee on Interstate and Foreign Commerce, House of Representatives,
2125 Rayburn House Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request of February 6, 1973 for the views of the Office of Management and Budget on H.R. 783 a bill "To authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Algona, Iowa, for airport purposes."

This Office would have no objection to enactment of this bill.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., May 30, 1974.

HON. HARLEY O. STAGGERS,
*Chairman, Committee on Interstate and Foreign Commerce, House of Representatives,
2125 Rayburn House Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Office of Management and Budget on H.R. 5815, a bill, "To authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Camden, Arkansas, for airport purposes."

For the reasons stated in the Department of Transportation report sent to you, the Office of Management and Budget would have no objection to the enactment of H.R. 5815 from the standpoint of the Administration's program.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., September 14, 1973.

HON. HARLEY O. STAOGERS,
*Chairman, Committee on Interstate and Foreign Commerce, House of Representatives,
2125 Rayburn House Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request of May 30, 1973, for the views of the Office of Management and Budget on H.R. 8022, a bill "To authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Rolla, Missouri, for airport purposes."

The Office of Management and Budget would have no objection to the passage of this bill.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY,
Washington, D.C., June 25, 1973.

HON. HARLEY O. STAOGERS,
*Chairman, Committee on Interstate and Foreign Commerce, House of Representatives,
Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to a request for the views of the Department of Transportation regarding H.R. 783, a bill to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Algona, Iowa, for airport purposes.

H.R. 783 would remove the restrictive conditions imposed by §16 of the Federal Airport Act of 1946 as they appear in the Quitclaim Deed dated March 20, 1947, pursuant to which the War Assets Administration (WAA) transferred to the City of Algona approximately 221.3 acres to be used as a public airport. Such a release would allow part of the airport property to be used for industrial or non-airport purposes.

At the time of the above-mentioned conveyance, the WAA was unable to convey non-airport surplus property (such as the prisoner of war camp conveyed by the Algona Deed) for airport purposes without a reverter clause because of the conveyance authority contained in § 16 of the Federal Airport Act. Section 16 of the Federal Airport Act states, in part, "each such conveyance shall be on the condition that the property interest conveyed shall automatically be reverted to the United States in the event that the lands in question are not developed, or cease to be used, for airport purposes."

It is the Department's position that such a release to permit use of a part of the airport for industrial or non-airport purposes is not inconsistent with the needs of the Department of Transportation and would, in fact, benefit the airport's overall operation.

Additionally, we would point out that P.L. 89-649, which dealt with a similar situation in Clarinda, Iowa, was enacted on October 13, 1966. We have been advised by representatives of Elkhart, Kanass and Rolla, Missouri (both § 16 Surplus Property airports) that they have requested similar legislation relative to their airports.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report to the Committee recommending enactment of H.R. 783.

Sincerely,

JOHN W. BARNUM, *General Counsel.*

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY,
Washington, D.C., June 11, 1974.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to a request for the views of the Department of Transportation concerning H.R. 5815, a bill to authorize the Secretary of Transportation to release any or all restrictions on the use of certain property conveyed to the city of Camden, Arkansas, for airport purposes.

This bill would authorize the Secretary of Transportation to remove the condition contained in the August 5, 1954 deed to the city of Camden required by the then effective Federal Airport Act (60 Stat. 179, repealed May 21, 1970, 84 Stat. 235), specifying that Federal property conveyed for airport purposes shall automatically revert to the United States if it ceases to be used for those purposes. The bill further provides that any release from a condition contained in the deed will be subject to section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c) which authorizes the Administrator of the Federal Aviation Administration to impose upon a release such conditions as he deems necessary to protect the interests of the United States in civil aviation, and also requires that the proceeds of any sale of property to a third party within five years be devoted exclusively to public airport purposes.

Unlike restrictions on conveyances pursuant to the Federal Airport Act, such as the conveyance which is the subject of this bill, restrictions placed on transfers made pursuant to the Surplus Property Act of 1944 may be released by the Secretary in accordance with certain conditions stated in section 4 of that act (50 U.S.C. App. 1622c). Similarly, restrictions on conveyances under section 23 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1723(b)), the successor to the Federal Airport Act, may also be released at the option of the Secretary.

This bill, therefore, would give the Secretary the same authority to release the restrictions on the Federal Airport Act conveyance to Camden that he now has on conveyances made under the current statutes, subject to the conditions of section 4 of the Act of October 1, 1949.

It has been our consistent position that the vesting of this authority in the Secretary is in the best interests of civil aviation. Consequently, we support the enactment of this bill.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report for the consideration of the Committee.

Sincerely,

RODNEY E. EYSTER, *General Counsel.*

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY,
Washington, D.C., August 31, 1973.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department concerning H.R. 8022, a bill to authorize the Secretary of Transportation to release restrictions of the use of certain property conveyed to the City of Rolla, Missouri, for airport purposes.

This legislation would authorize the Secretary of Transportation to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated October 6, 1958, under which the United States conveyed airport property to the City of Rolla, Missouri, pursuant to the Federal Airport Act (60 Stat. 170). Enactment of this legislation would permit the City

to utilize appropriate areas of Rolla National Airport for revenue-producing purposes, notwithstanding the property-use restrictions embodied in Section 16 of the Federal Airport Act, would aid in airport development, and would permit the airport to become self-supporting.

Such a release to permit use of a portion of the airport for industrial or non-airport uses is not inconsistent with the needs of this Department and would, in fact, benefit the airport's overall operation. We, accordingly, recommend enactment of this legislation.

Additionally, we would point out that P.L. 89-649, which dealt with a similar situation in Clarinda, Iowa, was enacted on October 13, 1966 and have been advised that Camden, Arkansas, Algona, Iowa, and Elkhart, Kansas have requested similar legislation relative to their airports.

The Office of Management and Budget has advised that there is no objection to the submission of this report to the Committee recommending enactment of this legislation.

Sincerely,

J. THOMAS TIDD, *Acting General Counsel.*

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY,
Washington, D.C., October 8, 1974.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to a request for the views of the Department of Transportation concerning H.R. 11131, a bill to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Elkhart, Kansas, for airport purposes.

This bill would authorize the Secretary of Transportation to remove the condition contained in the March 11, 1958 deed to the city of Elkhart required by the then effective Federal Airport Act (60 Stat. 179, repealed May 21, 1970, 84 Stat. 235), specifying that Federal property conveyed for airport purposes shall automatically revert to the United States if it ceases to be used for these purposes. The bill further provides that any release from a condition contained in the deed will be subject to section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c) which authorizes the Administrator of the Federal Aviation Administration to impose upon a release such conditions as he deems necessary to protect the interests of the United States in civil aviation, and also requires that the proceeds of any sale of property to a third party with five years be devoted exclusively to public airport purposes.

Unlike restrictions on conveyances pursuant to the Federal Airport Act such as the conveyance which is the subject of this bill, restrictions placed on transfers under the Surplus Property Act of 1944 may be released by the Secretary in accordance with certain conditions stated in the Act of October 1, 1949 (50 U.S.C. App. 1622c). Similarly, restrictions on conveyances under section 23 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1723(b)), the successor to the Federal Airport Act, may also be released at the option of the Secretary.

This bill therefore, would give the Secretary the same authority to release the restrictions on the Federal Airport Act conveyance to Elkhart that he now has on conveyances made under the current statutes, subject to the conditions of section 4 of the Act of October 1, 1949.

It has been our consistent position that the vesting of this authority in the Secretary is in the best interests of civil aviation. Consequently, we support the enactment of this bill.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report for the consideration of the Committee.

Sincerely,

RODNEY E. EYSTER, *General Counsel.*

Mr. METCALFE. Our first witness will be the Honorable Ray Thorn-ton, Member of Congress from the State of Arkansas.

**STATEMENT OF HON. RAY THORNTON, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF ARKANSAS**

Mr. THORNTON. Thank you, Chairman Metcalfe.

First, may I say I very much appreciate the privilege of appearing before the subcommittee to submit a statement in support of H.R. 5815, which I introduced on March 19, 1973, to authorize the Secretary of Transportation to release restrictions on the use of property conveyed to the city of Camden, Ark., for airport purposes.

If it is appropriate at this time I would like to request that the committee accept a statement which I have prepared for the record in behalf of this application.

Mr. METCALFE. That statement will be inserted in the record at this point.

[Congressman Thornton's prepared statement follows:]

**STATEMENT OF HON. RAY THORNTON, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF ARKANSAS**

Thank you, Mr. Chairman, I appreciate this opportunity to submit a statement in support of H.R. 5815, which I introduced on March 19, 1973, to authorize the Secretary of Transportation to release restrictions on the use of property conveyed to the city of Camden, Arkansas, for airport purposes.

The Ouachita/Calhoun County Airport Authority (hereinafter referred to as OCCAA) is the owner and operator of a regional airport in Ouachita County, Arkansas, located approximately two miles northeast of the city of Camden. The airport property consists of approximately 1000 acres which was acquired in three separate major acquisitions from the Federal government by the City of Camden during the period following World War II. The improvements on this property at the time of acquisition from the Federal government included a runway 3500 feet in length.

Subsequently, the City of Camden conveyed this land and improvements to OCCAA, which was funded in 1968 for the purpose of taking title to and improving the airport land for use as a regional airport. The initial improvement undertaken, and now completed, was the lengthening and strengthening of the runway to 6500 feet with 90,000 pound wheel load capacity.

The project was paid for jointly by Ouachita and Calhoun Counties on the one hand and the Federal government, through the Federal Aviation Administration, on the other, with local governments raising a total in excess of \$400,000 and the Federal contribution exceeding \$250,000.

As a part of the runway improvement project, OCCAA was required by FAA to acquire additional land both north and south of the then-existing airport to satisfy FAA clear zone safety requirements. One parcel of land which FAA required the OCCAA to purchase was a one-acre tract owned by an individual and used as a residence.

The OCCAA negotiated the acquisition of that tract, including the house which had to be removed, by a cash payment plus the exchange of two acres of unimproved airport land in the extreme northwest part of the airport property. The transaction was carried out as agreed upon, and the individual who owned the one-acre tract now resides on the two-acre tract which the OCCAA conveyed to him in exchange.

However, the restrictions in the conveyance from the Federal government to the City of Camden of the tract which included the two-acre parcel constitute a cloud on the private individual's ownership of the two acres where he now resides and upon OCCAA's title to the remainder of that tract because of the conveyance of two acres which are no longer used for airport purposes.

H.R. 5815 would authorize the Secretary of Transportation to cure these and any related title defects by releasing restrictions applicable to OCCAA airport land.

I am pleased to note that the Department of Transportation supports the bill, which will give to the Secretary authority which he possesses under the Airport and Airway Development Act of 1970, but which was not available under the

predecessor Federal Airport Act, under which the conveyance to the City of Camden was made. And I would like to point out also that the bill adequately protects the interest of the United States by providing that any release will be subject to section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), which authorizes the Administrator of the FAA to impose conditions he deems necessary to protect the interest of the United States in civil aviation.

I appreciate the Committee's interest in this needed legislation, and ask for your favorable consideration and report to the House.

Mr. THORNTON. Immediately following that statement, if it is appropriate I would like to request that the testimony of the Honorable Richard Ichord be spread upon the record of this hearing.

Mr. METCALFE. Mr. Ichord's prepared statement will be accepted and placed in the record as though read immediately following your testimony, Mr. Thornton. [See p. 13].

Mr. THORNTON. Thank you, sir.

In very brief summary, I would like to state that the need for the bill which I have introduced and which is one of the subject matters of this hearing arises from the Federal Aviation Administration requirement as part of the runway extension program of the Quachita/Calhoun County Airport Authority that the authority acquire some additional land to meet the FAA zone safety requirements.

In order to acquire a 1-acre parcel of land near the end of the runway north of the airport which was then privately owned and used as a residence, the Airport Authority negotiated an agreement with the owner to convey in exchange 2 acres of unimproved airport land subject to the restriction sought to be waived, and located in the extreme northwest part of the airport property.

Now the 2 acres had been earlier conveyed to the Airport Authority by the City of Camden, which had in turn acquired them from an approximately 1,000-acre tract owned by the United States and abandoned after World War II.

In a very real sense the exchange of these two acres for which we are seeking release was essential for the airport purposes of the Camden airport.

It should be noted that the bill adequately protects the interest of the United States by providing that the Administrator of the FAA may impose such conditions as he deems necessary to protect the interest of the United States in civil aviation.

For the reasons outlined in my statement, I would like to request that this subcommittee report favorably on the legislation before it and to thank you again for the privilege of appearing here today.

Mr. METCALFE. Congressman, I would like to ask you for what purposes will the city of Camden use the property in question.

Mr. THORNTON. The 2 acres for which this release is sought were at an extreme northwest corner of the airport property. It was required by the FAA that 1 acre be obtained at the end of the runway and a residence removed in order to obtain clearance.

So, it was agreed that the 2 acres be exchanged for the 1 acre required for airport property in order to obtain flight clearance.

Mr. METCALFE. For what purpose will the use of the land—

Mr. THORNTON. The 2 acres will be used as residence for the private use of the person exchanging the 1 acre which is essential for airport purposes.

Mr. METCALFE. Will the city of Camden in terms of the new agreement be able to sell the property in question? Is there any question as to their authority to sell it?

Mr. THORNTON. No, sir. They otherwise have sufficient authority to enter into the transaction. As it now stands, this restriction is essentially a cloud upon the right to transfer the property.

Mr. METCALFE. Mr. Skubitz, do you have any questions?

Mr. SKUBITZ. Mr. Thornton, I understand that the governmental agencies have no objection to this bill, is that right?

Mr. THORNTON. That is my understanding also, and in fact the real problem is that the legislation then existing did not permit the governmental agencies to make the discretionary act of approving this. This is to permit them to make that determination and to take whatever action is necessary.

Mr. SKUBITZ. Is this a case where the property was deeded over to the city?

Mr. THORNTON. Yes, sir.

Mr. SKUBITZ. For certain purposes; and now what you want is to remove any restriction, isn't that correct?

Mr. THORNTON. That is correct.

Mr. SKUBITZ. So that it can be used for another purpose if necessary.

Mr. THORNTON. Yes, sir. But it is, as I have outlined, in connection with proposals beneficial to aviation.

Mr. SKUBITZ. The Department has no objection to it?

Mr. THORNTON. No, sir.

Mr. SKUBITZ. Thank you.

Thank you very much, Mr. Chairman.

Mr. METCALFE. Thank you, Mr. Thornton.

[Congressman Ichord's prepared statement, referred to, follows.]

STATEMENT OF HON. RICHARD H. ICHORD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Mr. ICHORD. Mr. Chairman and members of the Subcommittee on Transportation and Aeronautics, thank you for the privilege of testifying today in support of H.R. 8022, a bill which would permit the city of Rolla, Missouri, to lease certain real property, previously conveyed to Rolla under the Federal Airport Act of 1946, for non-airport purposes. Since I first introduced this legislation on May 22, 1973, the Department of Transportation has recommended enactment of this legislation to your subcommittee stating that "such a release to permit use of a portion of the airport for industrial or non-airport uses is not inconsistent with the needs of this Department and would, in fact, benefit the airport's overall operation". Additionally the Office of Management and Budget has also advised your subcommittee that they have no objection to the Department of Transportation's recommendation for enactment of H.R. 8022.

The need for this legislation on behalf of the city of Rolla has arisen primarily due to the legislative constraints of section 16 of the Federal Airport Act of 1946 (49 U.S.C. 1115), which was the legislative vehicle for conveyance of the land to Rolla. Section 16 of the Federal Airport Act, as you know, allows the Administrator of the Federal Aviation Administration, when authorized by the Secretary of Transportation, to transfer airport land to a local public entity when it is reasonably necessary to complete a project sponsored by same.

However, this conveyance under Section 16 has two restrictive elements: the first is the reversion proviso under Section 16 that directs the land to revert automatically back to the Federal Government when the land is not developed within the spirit of the project's purposes; and the second which arises under Section 4 of the Federal Property and Administrative Services Act is the provision which allows the Administrator of the FAA to disallow the conveyance if in his determination the purpose of the land transfer would be detrimental to the overall development of civil aviation within the United States.

The property conveyed to Rolla, Missouri, was conveyed with the agreement that it would be used for airport purposes, and therefore, enactment of H.R. 8022 is required in order to authorize the Secretary of Transportation to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated October 6, 1958, in order that the city of Rolla, Missouri might develop a light industrial park on the northwest side of the current Rolla National Airport, as well as be relieved of some of the current paperwork burdens imposed by the existing deed.

Mr. Chairman, enactment of this legislation is extremely important to the city of Rolla, Missouri, and I would hope that this subcommittee would give expeditious and favorable consideration to same. As with many public entities in the United States, the city of Rolla is facing the problem of dwindling revenues and increased needs, and passage of this bill releasing the restrictions on the use of certain lands conveyed to Rolla would greatly assist Rolla in meeting its revenue requirements, supporting its present airport facilities and encouraging greater use of the Rolla National Airport.

Mr. METCALFE. At this point in the record I would like to insert a statement from the Honorable Wiley Mayne in support of this legislation that is pending before us.

[Congressman Mayne's prepared statement follows:]

STATEMENT OF HON. WILEY MAYNE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Mr. MAYNE. Congressman Skubitz and other distinguished members of the Subcommittee on Transportation and Aeronautics, I appreciate the courtesy of Chairman Jarman in authorizing this hearing and your cooperation in arranging to consider H. R. 783 and S. 1116.

This legislation is urgently needed by the City of Algona, Iowa, and the surrounding area of my Sixth Congressional District. It is noncontroversial and would be without cost to the Federal Government. Precedent exists for its enactment. It has been endorsed by the Department of Justice, the Department of Transportation and the Office of Management and Budget.

The enactment of this legislation is well justified, for the reasons described in the September 26 letter to Congressman Skubitz from Mr. William J. Finn, Mayor of the City of Algona, and Mr. Dwaine C. Lighter, Chairman of the Algona Airport Commission, and its enclosure. I am sure I need not repeat this information in this statement,

for I am sure you are well acquainted with it from my correspondence and conversations with the members of the Subcommittee. Your cooperation in expediting a favorable report on this bill by your Subcommittee and then by the full Committee so that it may be considered by the House as soon as possible would be most sincerely appreciated.

[The attachments referred to follow:]

CITY OF ALGONA, IOWA,
September 26, 1974.

Re H. R. 783 and S. 1116—A bill to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the City of Algona, Iowa, for airport purposes.

HON. JOE SKUBITZ,
Subcommittee on Transportation and Aeronautics, House Committee on Interstate and Foreign Commerce, House Office Building, Washington, D.C.

DEAR SIR: We have been advised that you will conduct a hearing on behalf of your Subcommittee regarding the above legislation on October 1, 1974. On behalf of the City of Algona and its Airport Commission, we respectfully request your favorable action on this legislation and urge your consideration of the following pertinent matters:

1. The bill does not request preferential treatment since the action requested under the bill is presently available to most airports under §1622 of 50 App. U.S.C. It was only due to the fact that this property originally was conveyed to the City at a time when there was a transition between the authority of the Surplus Property Act of 1944 and the Federal Airport Act, that the City does not have permission to request release of the restrictions at the present time. (See copy of opinion of the Associate General Counsel for the Federal Aviation Administration attached.) Public Law 89-649, passed October 13, 1966, granted to the City of Clarinda, Iowa, precisely the same authority requested for the City of Algona in H. R. 783.

2. Release from restrictions would still be subject to the supervision of the Secretary of Transportation and would, therefore, not be subject to abuse.

3. There is no cost to the government involved in the proposed legislation.

4. The City of Algona has an excellent airport facility due in large measure to the assistance of the Federal Aviation Agency in the development of the airport. The most recent improvement has been the construction in 1974 of a new cement runway 3,960 feet in length under F.A.A. Project No 7-19-0002-0172. In certain areas of the airport there are substantial tracts of land not required for airport purposes which it is felt would adapt extremely well to an air industrial park. We feel that a part of the purpose of the airport improvements would be defeated if this facility were not made available to as great a potential use as possible, and an air industrial park would provide the greatest service to the public through the airport, in addition to improving the economic diversification of the area.

When this legislation was originally introduced, there were three industrial prospects who showed great interest in locating in this industrial park. Due to the extended delay in the adoption of the legislation, one of the prospects has located elsewhere in the community, and the other two prospects have not finalized their plans to our knowledge. Although the economic conditions are not as favorable to this development as they were when this legislation was first introduced, we are confident that the future of our community will be served by the availability of this property for industrial development to the extent permitted by the Secretary of Transportation.

Your favorable consideration of the legislation will be sincerely appreciated.
Respectfully Submitted.

WILLIAM J. FINN,
Mayor, City of Algona.
DWAINE C. LIGHTER,
Chairman, Algona Airport Commission.

Attachment.

DEPARTMENT OF TRANSPORTATION.
FEDERAL AVIATION ADMINISTRATION,
Washington, D.C., June 16, 1972.

RUSSELL G. BUCHANAN, Esquire,
HUTCHISON, BUCHANAN, ANDREASEN & MCCLURE,
111 North Dodge Street
Algona, Iowa.

DEAR MR. BUCHANAN: We have reviewed your request of 28 April 1972 for a release of the reverter clause appearing in a Quitclaim Deed dated 20 March 1947, pursuant to which the War Assets Administration (WAA) transferred to the City of Algona approximately 221.3 acres to be used as a public airport. Such a release would be required to permit use of a part of the airport for industrial or non-airport purposes.

Our review shows that although the deed recites as authority both the Surplus Property Act of 1944 and the Federal Airport Act, the FAA's request for conveyance was based only on Section 16 and the substantive authority for the conveyance was Section 16 of the Federal Airport Act alone. At the time of the conveyance, in March 1947, the WAA was unable to convey non-airport surplus property (such as the prisoner of war camp conveyed by the Algona deed) for airport purposes without consideration. Prior to the enactment of the amendment to the Surplus Property Act of 1944 by Public Law 80-289, July 30, 1947, the only authority for conveying such property without consideration had to be found in Section 16 of the Federal Airport Act. Thus, although the Algona property may have been declared surplus, the conveyance was accomplished under Section 16.

The Algona situation is identical in all material elements to the situation which existed with respect to the prisoner of war camp conveyed for airport purposes to Clarinda, Iowa six days later, on 26 March 1947. We concluded in that case that the provisions in the Act of October 1, 1949, 63 Stat. 700, authorizing the FAA to grant releases from the restrictions of deeds conveying surplus property transferred pursuant to the Surplus Property Act of 1944, did not extend to surplus property conveyed for airport purposes pursuant to Section 16 of the Federal Airport Act. It was clear in the Clarinda conveyance, as in the Algona case, that the result would have been different if the conveyance had been effected pursuant to the amendment of the Surplus Property Act of 1944, enacted less than four months later as Public Law 289, an amendment which did specifically authorize the conveyance, without consideration, of non-airport property for airport purposes.

In the Clarinda case, as you know, it was concluded that legislative action was needed to permit a grant of the desired release. The result was the enactment of Public Law 89-649, October 13, 1966, pursuant to which a release was granted by this agency in Clarinda.

We recognize some logical appeal in the proposition that when surplus property has been conveyed for airport purposes the release authority in the Act of October 1, 1949 should apply, regardless of whether the property was conveyed before or after the Act of July 30, 1947. Nevertheless, where the conveyance has been made only under the substantive authority of Section 16, it is reasonable to conclude that the authority to grant releases from the restrictions imposed pursuant to the express provisions of that statute must be related to Section 16 itself. Inasmuch as the FAA has not been given authority under the 1949 Act or any other statute to grant releases from the reverter provisions of Section 16 of the Federal Airport Act, we must adhere to the conclusion reached in the Clarinda legislation and accepted by Congress in enacting the remedial legislation. We therefore must advise you that legislative action would be needed to authorize a grant of the requested release in the case of the Algona airport.

I appreciate the thoughtful presentation of your position in this matter.

Sincerely,

OSCAR SHIENBROOD,
Associate General Counsel,
General Legal Services Division, GC-10.

Mr. METCALFE. Now I call on my distinguished colleague, Mr. Skubitz, for a statement.

**STATEMENT OF HON. JOE SKUBITZ, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF KANSAS**

Mr. SKUBITZ. Mr. Chairman, I submitted a bill in behalf of Mr. Sebelius and myself, H.R. 11131. The purpose of this bill is to remove restrictions that now exist and to grant releases from any conditions or reservations that might be against the deed that was issued by the United States conveying property to Elkhart for airport purposes.

We do not have a report on this bill, but it is quite similar to the other three that we have before us. What this would do is give the City of Elkhart the right to use the airport for purposes other than designated by the deed.

I should like to say to the Chairman that with respect to this bill I would like to see the subcommittee report the bill favorably along with the others, with the one condition that before the final action is taken by the full committee that we do get a departmental report.

Mr. METCALFE. I think we have such a report, do we not?

Mr. SKUBITZ. I don't have it on this bill. I have requested it three or four times, but for some reason the Department has not sent it to us.

Mr. METCALFE. Thank you. We will follow through and your wishes will be carried out.

May I ask you a question as to what this land will be used for after the conveyance?

Mr. SKUBITZ. I understand that it is to be used as a golf course.

Mr. METCALFE. How many holes for golf?

Mr. SKUBITZ. I don't know.

Mr. METCALFE. I am very curious about that.

As far as you know, there are no restrictions so far as the deeding of the property?

Mr. SKUBITZ. There are not any that I know of. We have asked the Department for its report on several occasions but they have been negligent in getting it down. Inasmuch as we had the reports on three other bills, all of them favorable, I thought perhaps the committee might report all four of them favorably to the full committee with the condition that we do have a departmental report stating that it didn't object to the transfer in the case of the bill submitted by Mr. Sebelius and myself.

Mr. METCALFE. How many acres are involved?

Mr. SKUBITZ. It is a relatively small parcel.

Mr. METCALFE. Thank you very much, Congressman Skubitz, for your fine testimony.

Our next witness will be the Honorable William V. Vitale, Acting Assistant Administrator for Airports, Federal Aviation Administration.

Mr. Vitale.

STATEMENT OF WILLIAM V. VITALE, DEPUTY DIRECTOR, AIRPORTS SERVICE, FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY OSCAR SHIENBROOD, ASSOCIATE GENERAL COUNSEL, OFFICE OF THE CHIEF COUNSEL

Mr. VITALE. Mr. Chairman and members of the subcommittee. Thank you for the invitation to appear today to discuss the following legislation: H.R. 11131, related to Elkhart, Kans.; H.R. 783, related to Algona, Iowa; H.R. 5815, related to Camden, Ark.; and H.R. 8022, related to Rolla, Mo. Appearing with me today is Oscar Shienbrood of our Chief Counsel's Office.

The above-named communities have at least one thing in common. All four communities, following World War II, had certain property transferred to them by the U.S. Government. The property was to be used for airport purposes only. In order to assure such use, all four deeds of conveyance contained clauses, required by section 16 of the Federal Airport Act, providing for automatic reversion of the property to the United States in the event the property was not developed, or ceased to be used, for airport purposes.

These clauses in effect foreclosed the grantees from using the property, or portions thereof, for other than airport purposes. For example, the land could not be developed for industrial purposes. In some cases this inability to develop portions of the property for non-aviation revenue raising uses actually worked adverse to aviation interests because these small airports were not self-sufficient.

Under the Federal Airport Act, as carried over by a savings provision in the Airport and Airway Development Act of 1970 (Public Law 91-258), the Secretary of Transportation lacked authority to release the restrictions contained in the deeds of conveyance.

The bills you are considering today would authorize the Secretary of Transportation to grant a release from the reversionary clause so that the communities affected could use the property for industrial development or other purposes. The bills contain a safeguard against abuse by making the Secretary's authority subject to the provisions of section 4 of the act of October 1, 1949 (Public Law 81-311, 50 App. U.S.C. 1622c). That section requires that before property is released for nonairport purposes it must be determined that the property is no longer necessary to accomplish the purpose for which it was originally transferred and is not necessary to protect or advance U.S. Civil Aviation.

The section further provides that the Secretary may impose such conditions on the conveyance as he deems necessary so as to insure that any proceeds arising from nonairport use of the property will be used for the development and maintenance of the airport.

Mr. Chairman, there is precedent for such legislation. Under similar facts legislation was approved by the Congress in connection with airport property in Clarinda, Iowa, in 1966 (Public Law 89-649). It has been our consistent position that the vesting of this authority in the Secretary is in the best interests of civil aviation.

We have looked at the situations in Algona, Rolla, Elkhart and Camden. The release authority provided by the bills to permit use of portions of these properties for industrial or nonairport uses is not

inconsistent with the needs of the Department of Transportation. Accordingly, enactment of this legislation is recommended.

At this point, Mr. Shienbrood has two technical corrections of the bills, if it is all right.

Mr. METCALFE. Mr. Shienbrood.

Mr. SHIENBROOD. This refers to H.R. 5815 on Camden, Ark., and H.R. 11131 on Elkhart, Kans. The suggestion that I want to make relates to the date used within the parenthesized clause in each of those two bills.

The bills apparently were modeled on the Algona, Iowa, bill and used the date that appears there, which is actually the date of the deed of conveyance in the Algona case.

I would suggest that there be substituted for that date which is March 20, 1947, the actual dates of the respective deeds of conveyance in the Camden (Arkansas) and Elkhart (Kansas) cases, which, in H.R. 5815 the substituted date would be August 5, 1954, and in H.R. 11131 the substituted date would be March 11, 1958.

Mr. METCALFE. Mr. Shienbrood, would you submit a statement for the record and make a copy available to the committee, if you will, please?

Mr. SHIENBROOD. Yes, sir.

Mr. METCALFE. Thank you very much.

[See letter dated October 4, 1974, p. 20, this hearing.]

Mr. METCALFE. Are there any other additions or statements that you wish to make?

Mr. VITALE. Mr. Chairman, this concludes my prepared statement. If you or other members of the subcommittee have any questions, I and my associates will be pleased to answer them.

Mr. METCALFE. I have one question, Mr. Vitale. Have these properties ever been used for airport purposes since they were deeded to the cities by the Transportation Authority?

Mr. VITALE. The property was conveyed for airport purposes, and all four sites have been used for airports.

Mr. SKUBITZ. I am not certain, but it seems to me they were actually deeded for that purpose, Mr. Chairman. In turn, if you can't get airlines to come to your city, why, you seek another purpose for them.

Mr. VITALE. Under the reverter clause the property would revert to the United States when it ceases to be used for airport purposes.

Mr. METCALFE. For airport purposes?

Mr. VITALE. Yes, sir.

Mr. METCALFE. I think it would be very important for the record for use to know in each instance when they were first deeded and when they were used and then when they ceased to be in use.

Mr. VITALE. We can submit that specific information for the record if you would like, Mr. Chairman.

Mr. METCALFE. Yes. I would make that in the form of a request.

Mr. VITALE. We will check the record on that and submit it.

Mr. METCALFE. Very good.

[The following letter was received for the record:]

DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION,
Washington, D.C., October 4, 1974.

HON. JOHN JARMAN,
Chairman, Subcommittee on Transportation and Aeronautics, Committee on Interstate and Foreign Commerce, House of Representatives, Washington D.C.

DEAR MR. CHAIRMAN: At the hearing before the Subcommittee on Transportation and Aeronautics on October 1 relative to H.R. 5815, H.R. 11131, H.R. 8022 and H.R. 783, I agreed to supply for the record (at page 16 of the transcript) the dates of conveyance for each airport in issue and information relative to the use of such airports for aviation purposes. The requested information is as follows:

Camden, Arkansas.—Date of conveyance—August 5, 1954.

Of the 215 acres transferred, 3.24 acres was exchanged in 1971 for two lots in the airport's clear zone to protect the approach to runway 36. This exchange involved the relocation of a house to the 3.24 acre site.

Elkhart, Kansas.—Date of conveyance—March 11, 1958.

Of the 1,517 acres conveyed, some 38 acres contained a 9-hole golf course. The golf course has continued to operate since 1958. The proposed bill would provide for the release by the Secretary of Transportation from the Section 16 conditions and thereby resolve a long-standing problem with respect to use of the entire 1,517 acres for airport purposes.

Rolla, Missouri.—Date of conveyance—October 6, 1958.

The entire 1,370 acres conveyed in 1958 has been and is now being used for airport purposes.

Algona, Iowa.—Date of conveyance—March 20, 1947.

The entire 221.3 acres conveyed in 1947 has been and is now being used for airport purposes.

The Subcommittee also requested that the changes suggested during the hearing by Mr. Shienbrood, who accompanied me, to H.R. 5815 and H.R. 11131 be confirmed in writing. The suggested changes follow:

In H.R. 5815, delete the date "March 20, 1947" which appears in the parenthesized clause and substitute the date "August 5, 1954".

In H.R. 11131, delete the date "March 20, 1947" which appears in the parenthesized clause and substitute the date "March 11, 1958".

The substituted dates are the dates of the respective deeds by which the affected lands were conveyed to Camden, Arkansas (H.R. 5815) and Elkhart, Kansas (H.R. 11131), respectively. This information should be included in the record at page 14 of the transcript.

Sincerely,

WILLIAM V. VITALE,
Acting Associate Administrator for Airports.

Mr. METCALFE. I have no further questions.

Mr. Skubitz, do you have any further questions?

Mr. SKUBITZ. Only one. With regard to the two bills that you suggested that we make changes in the date, I would like at the proper time, Mr. Chairman, to offer such an amendment to make those changes.

No. 2, the Federal Aviation Administration has no objection to H.R. 11131, is that correct, sir?

Mr. VITALE. That is correct.

Mr. SKUBITZ. Therefore, it won't be necessary to ask for a separate report. On the basis of your testimony we can assume that the governmental agency supports this legislation.

Mr. VITALE. That is correct, sir.

Mr. SKUBITZ. Thank you, sir.

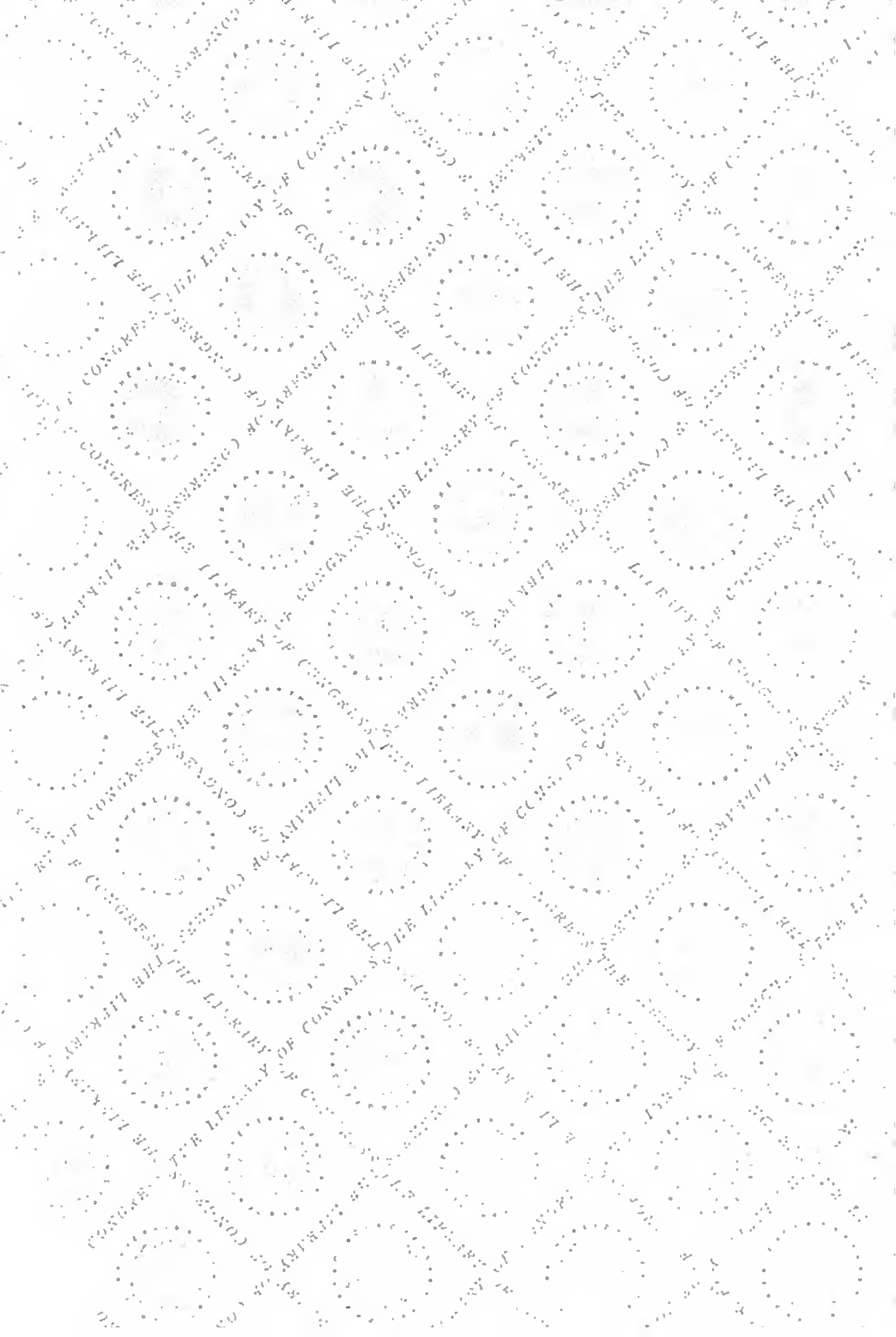
Mr. METCALFE. Thank you very much, Mr. Vitale, for your testimony.

Are there any other witnesses who wish to make a statement before the subcommittee?

If not, the subcommittee will stand adjourned.

[Whereupon, at 2:35 p.m. the subcommittee adjourned.]

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